

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

MALIK KENDRICK,

Case No. 2:23-cv-00594-ART-VCF

Petitioner,

ORDER

v.

GABRIELA NAJERA, *et al.*,

Respondents.

This action is a petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254, by Malik Kendrick, who is incarcerated at Nevada's Southern Desert Correctional Center. Kendrick submitted for filing his habeas petition (ECF No. 1-1) and a motion for appointment of counsel (ECF No. 1-2) on April 18, 2023. He paid the filing fee on June 9, 2023. (ECF No. 4.)

The Court has examined Kendrick's habeas petition pursuant to Rule 4 of the Rules Governing Section 2254 Cases. The Court will order the petition served on the respondents.

A prisoner not sentenced to death petitioning for a writ of habeas corpus in federal court is not entitled to appointed counsel unless the circumstances indicate that appointed counsel is necessary to prevent a due process violation. *Chaney v. Gonzales*, 801 F.2d 1191, 1196 (9th Cir. 1986) (citing *Kreiling v. Field*, 431 F.2d 638, 640 (9th Cir. 1970) (per curiam)). The court may, however, appoint counsel if the interests of justice so require. See 18 U.S.C. § 3006A; *see also* Rule 8(c), Rules Governing § 2254 Cases; *Chaney*, 801 F.2d at 1196. The Court finds that appointment of counsel for Kendrick is in the interests of justice and will grant Kendrick's motion for appointment of counsel.

It is therefore ordered that the Clerk of the Court is directed to separately file the Petition for Writ of Habeas Corpus (ECF No. 1-1) and the Motion to Appoint Counsel (ECF No. 1-2).

1 It is further ordered that Petitioner's Motion to Appoint Counsel (ECF No.
2 1-2) is granted. The Federal Public Defender for the District of Nevada (FPD) is
3 appointed to represent the petitioner. If the FPD is unable to represent the
4 petitioner, because of a conflict of interest or other reason, alternate counsel will
5 be appointed. In either case, counsel will represent the petitioner in all federal
6 court proceedings relating to this matter, unless allowed to withdraw.

7 It is further ordered that the Clerk of the Court is directed to electronically
8 serve upon the FPD a copy of this order, together with a copy of the Petition for
9 Writ of Habeas Corpus (ECF No. 1-1).

10 It is further ordered that the FPD will have 30 days from the date of this
11 order to file a notice of appearance or to indicate to the Court their inability to
12 represent the petitioner in this case.

13 It is further ordered that the Clerk of the Court is directed to add Aaron
14 Ford, Attorney General of the State of Nevada, as counsel for Respondents and to
15 provide Respondents an electronic copy of all items previously filed in this case
16 by regenerating the Notice of Electronic Filing to the office of the Attorney General
17 only.

18 It is further ordered that the respondents will have 30 days from the date
19 of this order to appear in this action. Respondents will not be required to respond
20 to the habeas petition at this time.

21 DATED THIS 14th day of June, 2023.

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23 ANNE R. TRAUM
24 UNITED STATES DISTRICT JUDGE
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